

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 128

April 6, 1995, 3:04 p.m.
Page S-5322 Temp. Record

DISASTER SUPPLEMENTAL-RESCISSIONS/Expatriate Tax Avoidance

SUBJECT: Emergency Supplemental Appropriations Disaster Assistance and Rescissions Act . . . H.R. 1158. Kennedy amendment No. 448 to the Hatfield substitute amendment No. 420.

ACTION: AMENDMENT AGREED TO, 96-4

SYNOPSIS: As introduced, H.R. 1158, the Emergency Supplemental Appropriations Disaster Assistance and Rescissions Act, will provide \$5.360 billion in emergency appropriations for disaster assistance, and will rescind \$17.188 billion for various Departments and agencies.

The Hatfield substitute amendment would strike the provisions of H.R. 1158 and insert in lieu thereof the text of S. 617, as reported, which would provide \$6.700 billion in disaster assistance (the amount requested by the President), would rescind \$13.286 billion for various Departments and agencies, and would provide for expedited salvage timber sales on Federal lands for fiscal years 1995 and 1996.

The Kennedy amendment would express the sense of the Senate that Congress should act as quickly as possible to make it impossible to avoid paying taxes by relinquishing United States citizenship. Further, it would express the sense of the Senate that this change should take effect as if enacted on February 6, 1995.

See vote No. 126 for related debate.

Those favoring the amendment contended:

The Senate should not countenance the evasion of taxes by those Americans who renounce their citizenship. Although the current Tax Code contains provisions, dating back to 1966, designed to address tax-motivated relinquishment of citizenship, those provisions have proven difficult to enforce and are easily evaded. Individuals with substantial wealth can, by renouncing U.S. citizenship, avoid paying high marginal rate taxes on income earned outside the United States, and, more importantly, can avoid the 37 percent estate tax rate that begins at \$600,000 and increases up to a 55 percent estate tax rate that begins at \$3 million. Millionaires who have

(See other side)

YEAS (96)				NAYS (4)		NOT VOTING (0)	
Republican (50 or 93%)		Democrats (46 or 100%)		Republicans (4 or 7%)	Democrats (0 or 0%)	Republicans (0)	Democrats (0)
Abraham	Hutchison	Akaka	Inouye	Craig			
Ashcroft	Inhofe	Baucus	Johnston	Gramm			
Bennett	Jeffords	Biden	Kennedy	Kyl			
Bond	Kassebaum	Bingaman	Kerrey	Mack			
Brown	Kempthorne	Boxer	Kerry				
Burns	Lott	Bradley	Kohl				
Campbell	Lugar	Breaux	Lautenberg				
Chafee	McCain	Bryan	Leahy				
Coats	McConnell	Bumpers	Levin				
Cochran	Murkowski	Byrd	Lieberman				
Cohen	Nickles	Conrad	Mikulski				
Coverdell	Packwood	Daschle	Moseley-Braun				
D'Amato	Pressler	Dodd	Moynihan				
DeWine	Roth	Dorgan	Murray				
Dole	Santorum	Exon	Nunn				
Domenici	Shelby	Feingold	Pell				
Faircloth	Simpson	Feinstein	Pryor				
Frist	Smith	Ford	Reid				
Gorton	Snowe	Glenn	Robb				
Grams	Specter	Graham	Rockefeller				
Grassley	Stevens	Harkin	Sarbanes				
Gregg	Thomas	Heflin	Simon				
Hatch	Thompson	Hollings	Wellstone				
Hatfield	Thurmond						
Helms	Warner						

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

acquired their wealth under the myriad advantages of U.S. citizenship should pay their fair share of taxes when they die; they should not be able to give it all to their children.

As Senators are aware, the Finance Committee proposed closing this tax loophole in its version of H.R. 831, the Health Care Deduction for the Self-Employed bill, the full Senate agreed, but the conference committee deleted the proposal (see vote No. 126). We agreed with that deletion, because a serious question was raised as to whether the Senate proposal comported with article 12 of the International Covenant on Civil and Political Rights, which the United States ratified in 1992. Section 2, article 12 of that covenant states: "Everyone shall be free to leave any country, including his own."

Since dropping this proposal, we have sought the opinion of numerous international law experts, and the consensus opinion that has formed is that closing this tax loophole will not violate international law. The American Law Division of the Congressional Research Service, Professor Detlev Vagts of Harvard Law School, State Department legal experts, Mr. Stephen Shay (who served as International Tax Counsel at the Treasury Department under the Reagan Administration), and Professor Paul Stephan III, a specialist in both international law and tax law at the University of Virginia School of Law, are among the experts who have concluded that the Senate provision was in conformance with international law. Therefore, we will no longer support a delay in enacting a closing of this tax loophole.

When it is enacted, it should be effective from February 6, 1995. February 6 was the date that President Clinton first announced his intention to close this loophole, and it is also the effective date that was in the Finance Committee's proposal. It is fair to make any law that is enacted retroactive back to February 6 because that is the date that Americans were first made aware of the intention to close this millionaire's loophole.

Senate support for this change in the tax code is overwhelming. Voting in favor of this sense of the Senate statement will underline Senate support, and will thus encourage the enactment of binding language. We thus strongly support the Kennedy amendment.

No arguments were expressed in opposition to the amendment.